

NOTE

This document contains the Connecticut regulations for the abatement of air pollution with the recently adopted revisions to the regulations that became effective December, 1983. This document was prepared by the State of Connecticut Department of Environmental Protection and is provided for the convenience of the reader. This is not the official version of the regulations. The official regulations are published by the State of Connecticut, Judicial Branch, Commission on Official Legal Publications in the Connecticut Law Journal. Official legal publications may be obtained from the Commission on Official Legal Publications, 111 Phoenix Ave Enfield, CT 06082 (telephone: (860) 741-3027, or www.jud.state.ct.us/colp/ColpDefault.htm). In the event there is an inconsistency between this document and the regulations as published in the Connecticut Law Journal, the Connecticut Law Journal will serve as the official version.

Sec. 22a-174-13. Variances

- (a) Any person who owns or operates any source of air pollutants as defined in section 22a-174-1 may apply to the Commissioner for a variance or a partial variance from one or more of the provisions of these regulations. Applications for a variance shall be submitted on forms furnished or prescribed by the "Commissioner" and shall supply such information as he requires, including but not limited to,
 - (1) information on the nature and location of the facility or process for which such application is made;
 - (2) the reasons for which the variance is required, including the economic and technological justifications;
 - (3) the type and quantity of emissions that will occur during the period of variance;
 - (4) a description of interim control measures to be taken by the source to minimize emissions and the damages occurring therefrom;
 - (5) history of any previous environmental litigation between the source and government agencies;
 - (6) a specific schedule of measures to be taken to bring the source into eventual compliance with those regulations from which the variance is sought;
 - (7) any other relevant information the Commissioner may require in order to make a determination regarding the application.
- (b) Failure to supply all necessary information to enable the Commissioner to make a determination regarding the application shall be cause for rejection of the application.
- (c) No variance shall be approved unless the applicant shall establish to the Commissioner's satisfaction that:
 - (1) discharges occurring during the period of

variance will not constitute a danger to public health or safety;

- (2) compliance with the regulations would produce practical difficulty or hardship without equal or greater benefits to the public.
- (d) In making a determination on granting a variance the Commissioner shall consider:
 - (1) the character and degree of injury to, or interference with, safety, health, or the reasonable use of property which is caused or threatened to be caused;
 - (2) the social and economic value of the activity for which the variance is sought;
 - (3) the suitability or unsuitability of the activity to the area in which it is located;
 - (4) the impracticability, both scientific and economic, of complying with the regulation from which the variance is sought.
- (e) The Commissioner shall not grant any variance that will prevent or interfere with the attainment or maintenance of any relevant ambient air quality standard.
- (f) Applications for variances may be rejected as untimely if received by the Department of Environmental Protection less than 90 days prior to the date for compliance with the regulation for which the variance is sought, or if notice of violation of the regulation has been served in accordance with section 22a-174-12(b)(2).
- (g) Following receipt and review of an application for a variance, the Commissioner shall fix a date, time, and location for a public hearing on such application.
- (h) The Commissioner shall cause the applicant to publish at his own expense all notices of hearings and other notices required by law.
- (i) Within sixty (60) days of the receipt of the record

of the hearing on a variance application, the Commissioner shall issue his determination regarding such application. All such decisions of the Commissioner shall be in writing and shall briefly set forth the reasons for the decision.

- (j) The Commissioner may, at his discretion, limit the duration of any variance granted under these regulations, except that no such variance may extend beyond three years.
 - (1) Any party holding a variance for three years and needing an extension of time may apply for a new variance under the provisions of these regulations.
 - (2) Any such application shall include a demonstration of compliance with any conditions imposed under the previous variance.
- (k) The Commissioner may attach to any variance any reasonable conditions he deems necessary or desirable, including but not limited to:
 - (1) requirements for special control measures to be taken by the source to minimize emissions during the period of variance;
 - (2) requirements for periodic reports submitted by the applicant relating to emissions, to compliance with any other conditions under which the variance is granted, or to any other relevant information the Commissioner deems necessary.
- (1)(1) A variance may be revoked or modified for failure to comply with such conditions as the Commissioner may have attached to the original grant of a variance.
- (1)(2) Notice of revocation or modification shall set forth the reasons for the action taken and shall be effective thirty (30) days after the date of service of the notice, unless a hearing is requested prior to the expiration of the thirty (30) day period.
- (1)(3) Any person considering himself aggrieved by such notice may consider the notice a written

order of violation under section 22a-174-12(b)(2) and may obtain a hearing thereon by filing a written answer and request for a hearing in accordance with section 22a-174-12(b)(4). Filing of the answer and request for the hearing shall postpone the effective date of the notice until conclusion of hearing and issuance of the decision of the Commissioner.